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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,326	09/19/2003	Richard D. Bailey	274P	8376

7590 09/12/2005
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EXAMINER

FERGUSON, MICHAEL P

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/666,326

Applicant(s)

BAILEY, RICHARD D.

Examiner

Michael P. Ferguson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-12 and 15-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-11 and 15-18 is/are allowed.
- 6) ☒ Claim(s) 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 17 is objected to because of the following informalities:

Claim 17 (line 26) recites "end that". It should recite --end than--.

Claim 17 (line 27) recites "end that". It should recite --end than--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Emerton et al. (US 619,684).

As to claim 12, Emerton et al. disclose a combination comprising:

a tubular member **1** having a longitudinal axis and opposing first (upper) and second (lower) ends;

a first sleeve **B** (Figure 1 reprinted with annotations below) rotatably connected to the tubular member so as to be rotatable about but not movable along the longitudinal axis (longitudinal movement being inhibited by wire **7** when eyebolt **5** is slightly loosened, while the sleeve retains the wire), the first sleeve being more closely adjacent to the first end than the second end;

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a pair of transversely opposed and apertured first lugs **B,4,6** (apertures being defined by the opening through lug **4** and the opening defined by lug **6**) integrally connected to and laterally extending from the first sleeve;

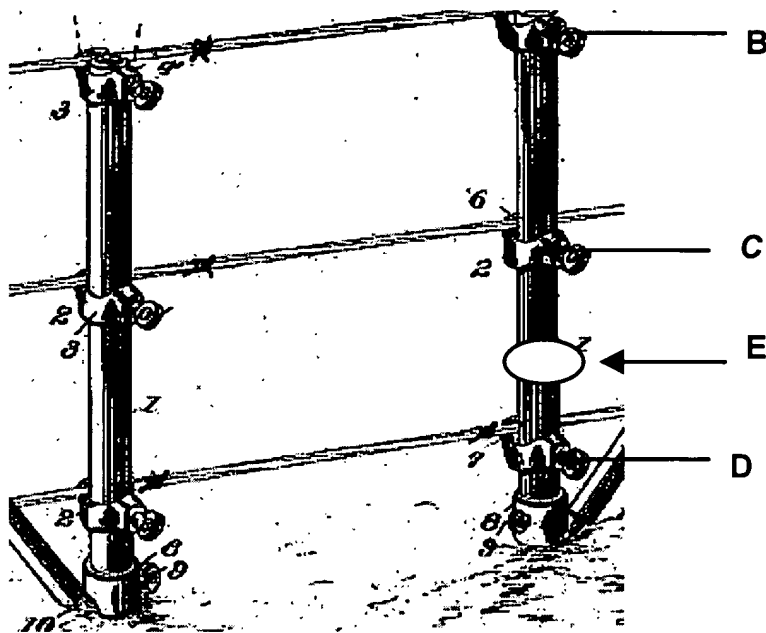
a second sleeve **D** rotatably connected to the tubular member so as to be rotatable about but not movable along the longitudinal axis (longitudinal movement being inhibited by wire **7** when eyebolt **5** is slightly loosened, while the sleeve retains the wire), the second sleeve being more closely adjacent to the second end than the first end;

a pair of transversely opposed and apertured second lugs **D,4,6** (apertures being defined by the opening through lug **4** and the opening defined by lug **6**) integrally connected to and laterally extending from the second sleeve;

a pair of transversely opposed and apertured third lugs **C,4,6** (apertures being defined by the opening through lug **4** and the opening defined by lug **6**) integrally connected to and laterally extending from the tubular member adjacent to the first sleeve and associated first lugs, the third lugs thereby also being more closely adjacent to the first (upper) end than the second (lower) end; and

a pair of transversely opposed and apertured fourth lugs (fourth clamp **E** supports a fourth wire intermediate second lugs **D** and third lugs **C**; page 1 lines 57-60) integrally connected to and laterally extending from the tubular member adjacent to the second sleeve and associated second lugs, the fourth lugs thereby also being more closely adjacent to the second (lower) end than the first (upper) end (Figures 1 and 5).

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Allowable Subject Matter

4. Claims 1,3-11 and 15-18 are allowed.
5. The following is a statement of reasons for the indication of allowable subject matter:

As to claim 1, Emerton et al. disclose the claimed fence assembly with the exception of comprising a second connection means for removably connecting the other end of the brace to the second lug such that the brace extends between the first and second lugs.

There is no teaching or suggestion, absent the applicant's own disclosure, for one having ordinary skill in the art at the time the invention was made to modify the fence assembly as disclosed by Emerton et al. to have the above mentioned elemental features.

Response to Arguments

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6. Applicant's arguments filed January 14, 2005 have been fully considered but they are not persuasive.

As to claim 12, Attorney argues that:

Emerton et al. do not disclose a combination comprising sleeves *rotatably connected to the tubular member so as to be rotatable about but not movable along the longitudinal axis*; pairs of transversely opposed and *apertured* lugs; the third lugs being *more closely adjacent to the first end than the second end*; and the fourth lugs being *more closely adjacent to the second end than the first end*.

Examiner disagrees. As to claim 12, Emerton et al. disclose a combination comprising sleeves **B,D** rotatably connected to the tubular member so as to be rotatable about but not movable along the longitudinal axis (longitudinal movement being inhibited by wire **7** when eyebolt **5** is slightly loosened, while the sleeve retains the wire); pairs of transversely opposed and apertured lugs **B,C,D,E,4,6** (apertures being defined by the opening through lug **4** and the opening defined by lug **6**); the third lugs **C** being more closely adjacent to the first (upper) end than the second (lower) end; and the fourth lugs **E** being more closely adjacent to the second (lower) end than the first (upper) end (Figures 1 and 5).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


MPF
09/02/05



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